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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE MATTER OF:

APPLICANT: ANTONIO JOSE DE ARAUJO PORTO

SERIAL NO.: 09/837,951

EXAMINER: Trinh T. Nguyen

FILING DATE: April 19, 2001

GROUP ART UNIT: 3726

FOR: METHOD OF MANUFACTURING PISTONS AND
COMPONENTS THEREOF, AND FORGING TOOLS

PETITION TO WITHDRAW HOLDING OF ABANDONMENT
BASED ON FAILURE TO RECEIVE OFFICE ACTION

Non. Commissioner of Patents
and Trademarks
Washington, D.C. 20231

RECEIVED

DEC 15 2003

GROUP 3600

SIR:

This is a petition under MPEP 711.03(c), II to withdraw abandonment of this application for failure to receive an Office Action for the following reasons:

1. Applicant filed a CPA on February 3, 2003.
2. Soon after filing of the CPA, the Examiner telephoned the undersigned to discuss the application and to request that applicant file a preliminary amendment by fax for the purpose of amending the claims to place them in condition for allowance. This preliminary amendment was submitted to the Examiner by fax on March 27, 2003.
3. The Examiner has confirmed the receipt of the CPA, as well as the preliminary amendment.
4. Since the filing of the preliminary amendment on March 27, 2003, applicant has not received any correspondence in this case from PTO, until the "Notice of Abandonment" dated November 18, 2003.
5. Upon receipt of the Notice of Abandonment, applicant spoke to the Examiner by telephone about this matter and was advised to communicate with the Supervisory Examiner Mr. Randolph Reese as to what steps to take to obtain withdrawal of abandonment of this application.
6. We were told by the office of Examiner Reese that we should be guided by MPEP 711.03(c), II, to file this petition for the purpose of withdrawing the filing of abandonment on the grounds that we had not received the Office Action which the Examiner said she had issued.

7. After filing the preliminary amendment with the changes requested by the Examiner beforehand, so as to make the claims allowable, we waited to receive the Notice of Allowance, or at least a phone call if the preliminary amendment was not satisfactory. It is not possible to estimate when a Notice of Allowance or an Office Action may be issued by PTO. It may take up to one year before such documents are issued.
8. The undersigned has practiced before PTO for over 30 years and this is the first time that he has not received an Office Action that was issued.
9. It could be expected that if an Office Action was not deliverable, it would be returned to PTO where appropriate corrective steps could be taken.
10. We(the undersigned) have had the experience that our mail was delivered several times in the past to our neighbor by mistake.
11. A copy of the file card listing actions received from PTO, and responses filed are being submitted.

The office of Supervisory Examiner Reese noted that there is no fee required for filing this petition. If, however, a fee is required, then please charge the fee to Deposit Account 06-1444.

I declare that this document is my original work and was submitted with the United States Postal Service in first class mail in an envelope addressed to Commissioner of Patents & Trademarks, Washington, D.C. 20231, on 12-5-03.

MAX FOGIEL
Name of applicant, assignee, or
Registered Representative
Max Fogiel
Signature
12-5-03
Date of Signature

Respectfully submitted,

Max Fogiel
61 Ethel Road West
Piscataway, New Jersey 08854

Phone: (732) 819-8880